

FILED

November 6 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 09-0312

STATE OF MONTANA,

Plaintiff and Appellee,

v.

CODY WILLIAM MARBLE,

Defendant and Appellant.

FILED

NOV 06 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Joseph P. Howard, counsel of record for Defendant and Appellant, and respectfully requests an extension of time until December 14, 2009, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 5 day of November, 2009.

JOSEPH P. HOWARD, P.C.

Joseph P. Howard

P.O. Box 268

Great Falls, MT 59403

By: 
Joseph P. Howard

STATE OF MONTANA)
 : ss.

County of Cascade)

I, Joseph P. Howard, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as a contract attorney.

2. In my capacity as a contract attorney, I have been assigned to handle the above-entitled matter.

3. The Appellant's opening brief was first due on October 13, 2009. The brief is presently due on November 13, 2009.

4. As shown below, I have exercised diligence and have substantial need for the extension.

5. Due to my current workload and other pressing deadlines, I cannot meet the present deadline for filing the Appellant's Opening Brief.

6. I have a postconviction relief hearing scheduled for November 16, 2009 and preparation for the hearing has required more time than anticipated.

7. I have had some difficulty in communicating with my client and we have not been able to reach a consensus on the issues to pursue on appeal.

8. I will work diligently to complete the matter in the time requested.

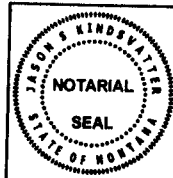
9. Opposing counsel has been contacted concerning this motion and does not object.

10. Further your affiant sayeth naught.

Joseph R Howard
Joseph R Howard

SUBSCRIBED AND SWORN to before me this 5 day of
November, 2009.

Jason S. Kindsvatter
JASON S. KINDSVATTER



NOTARY PUBLIC - MONTANA
JASON S KINDSVATTER
Residing at
Great Falls, Montana
My Comm. Expires Mar. 31, 2012

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

FRED R. VAN VALKENBURG
Missoula County Attorney
200 West Broadway
Missoula, MT 59802

CODY MARBLE 2044197
Montana State Prison
700 Conley Lake Rd
Deer Lodge, MT 59722

DATED: 11/5/09 